

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 7126**

**BILL NUMBER:** SB 560

**NOTE PREPARED:** Jan 12, 2011

**BILL AMENDED:**

**SUBJECT:** Deferral and Diversion Fees.

**FIRST AUTHOR:** Sen. Steele

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
☐ **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill has the following provisions:

- A. It provides that the State Sex and Violent Offender Administration Fund may be used to assist the Department of Correction in carrying out its duties concerning GPS monitoring of sexually violent predators and sex and violent offenders.
- B. It directs \$1, 1.2%, or 1.5% (depending on which court collects the fee) of the pretrial diversion fee and deferred prosecution fee to the State Sex and Violent Offender Administration Fund, and directs the same amount to the Public Defense Fund.

**Effective Date:** July 1, 2011.

**Explanation of State Expenditures:**

**Explanation of State Revenues:** This bill would affect three different funds at the state level:

- The state General Fund;
- The Public Defense Fund, which reimburses county expenditures for legal representation for indigent defendants in criminal cases;
- The State Sex and Violent Offender Administration Fund to help maintain the Indiana sex and violent offender registry. This bill would also help to fund a portion of the expenses for GPS monitoring of sexually violent predators and sex and violent offenders.

The revenue transfers are shown in the following table:

	<b>Deferred Prosecution Fee</b>	<b>Initial User Fee for Misdemeanors, Infractions, and Ordinance Violations</b>	<b>Total Change</b>
<b>General Fund</b>	(\$42,044)		(\$42,044)
<b>State Sex and Violent Offender Admin. Fund</b>	\$21,022	\$99,303	\$120,325
<b>Public Defense Fund</b>	\$21,022	\$99,303	\$120,325

The bill is estimated to result in a revenue transfer of \$21,000 from the state General Fund to the Public Defense Fund and \$21,000 to the State Sex and Violent Offender Administration Fund. Persons who enter into a misdemeanor diversion program with the local prosecuting attorney pay a \$120 fee. The state General Fund's share is 70% if the case is filed in a trial court and 55% if the case is decided in a city or town court. This bill would transfer a portion of the state share that would then be split evenly between the State Sex and Violent Offender Administration Fund and the Public Defense Fund.

A five-year average of cases disposed through the prosecuting attorneys pretrial diversion program was used to estimate this transfer.

<b>Revenue Transfer from State General Fund to State Sex and Violent Offender Administration Fund and Public Defense Fund</b>									
<b>Venue</b>	<b>Cases Diverted</b>		<b>Fee</b>		<b>State Share</b>		<b>Percent</b>		<b>Amount Of Transfer</b>
<b>Trial Courts</b>	14,878	x	\$120	x	70%	x	2.4%	=	\$29,994
<b>City and Town Courts</b>	6,086	x	\$120	x	55%	x	3%	=	\$12,050
									\$42,044

### **Explanation of Local Expenditures:**

**Explanation of Local Revenues:** The initial fee for both the Pretrial Diversion Program and the deferral program for infractions and ordinance violations is \$50, which is deposited into the county user fee fund. Under this bill, \$1 of each fee would be transferred to the Public Defense Fund and the State Sex and Violent Offender Administration Fund, respectively. The total revenue transfer for these two funds is an estimated \$198,605.

<b>Program</b>	<b>Collected from</b>	<b>Cases Affected</b>		<b>Fee Transferred</b>		<b>Revenue Transfer</b>
<b>Diversion Programs</b>	Misdemeanors	20,964	x	\$2.00	=	\$41,928
<b>Deferral Programs</b>	Infractions	69,387	x	\$2.00	=	\$138,773
	Ordinance Violations	8,952	x	\$2.00	=	\$17,904
						\$198,605
Note: \$99,303 would be deposited into the Public Defense Fund, and \$99,303 would be deposited into the State Sex and Violent Offender Administration Fund.						

**State Agencies Affected:** Department of Correction.

**Local Agencies Affected:** Prosecuting attorneys.

**Information Sources:** *Indiana Judicial Report*, 2006 through 2009.

**Fiscal Analyst:** Mark Goodpaster, 317-232-9852.